

Introduced by Senator Sher

February 13, 2004

An act to amend Section 17510.3 of the Business and Professions Code, and to amend Sections 12581, 12582, 12584, 12585, 12586, 12599, and 12599.1 of, and to add Sections 12598.1, 12599.3, 12599.6, 12599.7, and 12599.8 to, the Government Code, relating to charitable organizations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1262, as introduced, Sher. Charitable organizations: fundraising.

(1) Under existing law, the Supervision of Trustees and Fundraisers for Charitable Purposes Act governs charitable corporations, trustees, commercial fundraisers, fundraising counsel, and commercial coventurers who hold or solicit property for charitable purposes over which the Attorney General has enforcement and supervisory powers. Under the act, the Attorney General is also required to establish and maintain a register of charitable corporations and trustees subject to the act.

Existing law also requires the solicitor or seller of any solicitation or sales solicitation for charitable purposes to comply with specified disclosure requirements. Existing law also provides that any person, firm, corporation, partnership or association, or any employee or agent thereof who violates these provisions is guilty of a misdemeanor.

The act also requires a commercial fundraiser to register with the Attorney General's Registry of Charitable Trusts, as specified, and to file an annual financial report of funds solicited on behalf of each tax-exempt organization or for each charitable purpose, and requires

every charitable corporation and trustee subject to the act to also register and file with the Attorney General specified periodic written reports.

The bill would revise these provisions to require a charitable organization, including a commercial fundraiser, to include specified disclosures in any written solicitation and at the time of any oral solicitation and would provide that a charity may accept contributions only for a charitable purpose that is expressed in the solicitation for contributions and that conforms to the charitable purpose expressed in the articles of incorporation or other governing instrument of the charitable organization and to apply the contributions only in a manner consistent with that purpose. By expanding the scope of an existing crime, the bill would impose a state-mandated local program.

The bill would also apply the act to unincorporated associations and other legal entities holding property for charitable purposes and would require every charity subject to the act to file with the Attorney General within 30 days after the corporation, unincorporated association, or trustee initially receives property, except as to future interests in a charitable trust. The bill would also require charities that receive or accrue a gross revenue of \$500,000 or more in any fiscal year to prepare annual financial statements that are audited by an independent certified public accountant and to appoint an audit committee, as specified.

The bill would require a commercial fundraiser, not less than 10 working days prior to the commencement of each solicitation, campaign, event, or service to file a copy of the written contract between the commercial fundraiser and the charitable organization with the Attorney General's Registry of Charitable Trusts, as specified, and would prohibit any person from acting as a commercial fundraiser if he or she, or any person employed by the commercial fundraiser, has been convicted of a felony or misdemeanor involving dishonesty or arising from the conduct of a solicitation for a charitable organization or purpose. The bill would also prohibit a commercial fundraiser from soliciting in this state on behalf of a charitable organization unless it is registered in this state or is exempt from registration with the Attorney General's Registry of Charitable Trusts.

The bill would also require that contracts for services between a charitable organization and a fundraising counsel be in writing and filed by the fundraising counsel with the Attorney General's Registry of Charitable Trusts at least 10 working days prior to the performance of the contract and would provide that the contract between a charitable organization and a commercial fundraiser or fundraising counsel



contain specified provisions and are subject to cancellation requirements. The bill would also require a fundraising counsel to register with the Attorney General's Registry of Charitable Trusts and would require both a commercial fundraiser and fundraising counsel to maintain specified records for 10 years that are required to be available for inspection upon demand by the Attorney General.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17510.3 of the Business and Professions
2 Code is amended to read:
3 ~~17510.3.—(a) Prior to any solicitation or sales solicitation for~~
4 ~~charitable purposes, the solicitor or seller shall exhibit to the~~
5 ~~prospective donor or purchaser a card entitled “Solicitation or~~
6 ~~Sale for Charitable Purposes Card.” The card shall be signed and~~
7 ~~dated under penalty of perjury by an individual who is a principal,~~
8 ~~staff member, or officer of the soliciting organization. The card~~
9 ~~shall give the name and address of the soliciting organization or the~~
10 ~~person who signed the card and the name and business address of~~
11 ~~the paid individual who is doing the actual soliciting.~~
12 ~~In lieu of exhibiting a card, the solicitor or seller may distribute~~
13 ~~during the course of the solicitation any printed material, the as a~~
14 ~~solicitation brochure, provided such material complies with the~~
15 ~~standards set forth below, and provided that the solicitor or seller~~
16 ~~informs the prospective donor or purchaser that the information as~~
17 ~~required below is contained in the printed material.~~
18 ~~Information on the card or printed material shall be presented~~
19 ~~in at least 10-point type and shall include the following:~~
20 ~~(1) The name and address of the combined campaign, each~~
21 ~~organization, or fund on behalf of which all or any part of the~~
22 ~~money collected will be utilized for charitable purposes.~~

~~(2) If there is no organization or fund, the manner in which the money collected will be utilized for charitable purposes.~~

~~(3) The amount, stated as a percentage of the total gift or purchase price, that will be used for charitable purposes.~~

~~(4) If paid fundraisers are paid a set fee rather than a percentage of the total amount raised, the card shall show the total cost that is estimated will be used for direct fundraising expenses.~~

~~(5) If the solicitation is not a sale solicitation, the card may state, in place of the amount of fundraising expenses, that an audited financial statement of these expenses may be obtained by contacting the organization at the address disclosed.~~

~~(6)–~~

17510.3. (a) A charity may accept contributions only for a charitable purpose that is expressed in the solicitation for contributions and that conforms to the charitable purposes expressed in the articles of incorporation or other governing instrument of the charitable organization and may apply the contributions only in a manner consistent with those purposes.

(b) A charity soliciting in this state shall include all of the following disclosures in any written solicitation and at the time of any oral solicitation:

(1) Its legal name and address as registered with the Attorney General's Registry of Charitable Trusts, and, if different, the legal name and address of the charity, as registered with the Attorney General's Registry of Charitable Trusts, on whose behalf the solicitation is being conducted. Any use of a project or program name in a solicitation must be immediately followed by a disclosure of the legal name of the charity as registered with the Registry of Charitable Trusts.

(2) If requested, the name, address, and telephone number of a representative to whom inquiries can be addressed and from whom written information is available.

(3) A full, fair, and accurate description of the charitable purpose or purposes for which the contributions raised by the solicitation will be used.

(4) If requested, the source from which a financial statement may be obtained. The financial statement shall be consistent with the annual financial report required under Section 12586 of the Government Code and shall disclose assets, liabilities, fund balances, revenue, and expenses for the preceding fiscal year.

1 *Expenses shall be separated into program services, administrative*
2 *costs, and fundraising costs.*

3 *(5) A commercial fundraiser for charitable purposes shall*
4 *disclose that the solicitation is being conducted by a commercial*
5 *fundraiser for compensation and, if the individual acting on behalf*
6 *of the commercial fundraiser identifies himself or herself by name,*
7 *the individual's legal name.*

8 *(6) If requested orally or in writing by a person solicited, (A)*
9 *if a commercial fundraiser is being used and is being paid a fixed*
10 *fee, the fee being paid and an accurate estimate of what percentage*
11 *the fee will constitute of the total contributions received, or (B) if*
12 *a commercial fundraiser is being used and is being paid a*
13 *percentage fee, the percentage of the total contributions received*
14 *that will be remitted to or retained by the charitable organization,*
15 *or, if the solicitation involves the sale of goods or services or the*
16 *sale of tickets to a fundraising event, the percentage of the*
17 *purchase price that will be remitted to the charitable organization.*
18 *The stated percentage shall be calculated by subtracting from*
19 *contributions received and sales receipts not only the commercial*
20 *fundraiser's fee, but also any amount that the charitable*
21 *organization is obligated to pay as fundraising costs. A*
22 *commercial fundraiser for charitable purposes shall disclose this*
23 *information in writing within five working days from receipt of a*
24 *request by mail or facsimile. A commercial fundraiser shall orally*
25 *disclose this information immediately upon a request made in*
26 *person or in a telephone conversation and shall follow this*
27 *response with a written disclosure within five working days.*

28 *(7) Every printed solicitation and every written confirmation,*
29 *receipt, or reminder of a contribution provided to any person shall*
30 *include in 9-point typeface or larger a disclosure of the*
31 *information required by paragraphs (1), (2), (3), and (4) of*
32 *subdivision (b), and the following statement verbatim:*

33 *"The official registration and financial information regarding*
34 *(insert the legal name of the charity as registered with the Registry*
35 *of Charitable Trusts) can be obtained from the Attorney General's*
36 *Web site at <http://caag.state.ca.us/charities/>. Registration does*
37 *not imply endorsement."*

38 *(8) The non-tax-exempt status of the organization or fund, if*
39 *the organization or fund for which the money or funds are being*

1 solicited does not have a charitable tax exemption under both
2 federal and state law.

3 ~~(7) The percentage~~

4 ~~(9) If requested, the dollar amount of the total purchase price~~
5 ~~or cash gift or purchase price which that may be deducted as a~~
6 ~~charitable contribution under both federal and state law. If, or if~~
7 ~~no portion amount is so deductible that the card shall state that~~
8 ~~“This contribution is not tax-deductible.”~~

9 ~~(8) deductible.~~

10 (10) If the organization making the solicitation represents any
11 nongovernmental organization by any name which includes, but
12 is not limited to, the term “officer,” “peace officer,” “police,”
13 “law enforcement,” “reserve officer,” “deputy,” “California
14 Highway Patrol,” “Highway Patrol,” ~~or~~ “deputy sheriff,”
15 ~~firefighter, or any other term denominating persons who protect~~
16 ~~the public safety,~~ which would reasonably be understood to imply
17 that the organization is composed of law enforcement ~~or public~~
18 ~~safety personnel, the solicitor shall give the total number of~~
19 ~~members in the organization that are law enforcement or public~~
20 ~~safety personnel and the number of such members working or~~
21 ~~living within the county where the solicitation is being made, and~~
22 ~~if the solicitation is for advertising, the statewide circulation of the~~
23 ~~publication in which the solicited ad will appear.~~

24 ~~(9)–~~

25 (11) If the organization making the solicitation represents any
26 nongovernmental organization by any name which includes, but
27 is not limited to, the term “veteran” or “veterans,” which would
28 reasonably be understood to imply that the organization is
29 composed of veterans, ~~the solicitor shall give the total number of~~
30 ~~members in the organization and the number of members working~~
31 ~~or living within the county where the solicitation is being made.~~
32 This paragraph does not apply to federally chartered or state
33 incorporated veterans’ organizations with 200 or more dues
34 paying members or to a thrift store operated or controlled by a
35 federally chartered or state incorporated veterans’ organization.
36 This paragraph does not apply to any state incorporated
37 community-based organization that provides direct services to
38 veterans and their families and qualifies as a tax-exempt
39 organization under Section 501(c)(3) or 501(c)(19) of the Internal

1 Revenue Code and Section 23701d of the Revenue and Taxation
2 Code.

3 ~~(b)~~

4 (c) Knowing and willful noncompliance *with this section* by
5 any individual volunteer who receives no compensation of any
6 type from or in connection with a solicitation by any charitable
7 organization shall subject the solicitor or seller to the penalties of
8 the law.

9 ~~(e)~~

10 (d) When the solicitation is not a sales solicitation, any
11 individual volunteer who receives no compensation of any type
12 from, or in connection with, a solicitation by any charitable
13 organization may comply with the disclosure provisions by
14 providing the name and address of the charitable organization on
15 behalf of which all or any part of the money collected will be
16 utilized for charitable purposes, by stating the charitable purposes
17 for which the solicitation is made, and by stating to the person
18 solicited that information about revenues and expenses of the
19 organization, including its administration and fundraising costs,
20 may be obtained by contacting the organization's office at the
21 address disclosed. The organization shall provide this information
22 to the person solicited within seven days after receipt of the
23 request.

24 ~~(d)~~

25 (e) A volunteer who receives no compensation of any type
26 from, or in connection with, a solicitation or sales solicitation by
27 a charitable organization which has qualified for a tax exemption
28 under Section 501(c)(3) of the Internal Revenue Code of 1954, and
29 who is *under* 18 years of age ~~or younger~~, is not required to make
30 any disclosures pursuant to this section.

31 ~~(e)~~

32 (f) If any provision of this section or the application thereof to
33 any person or circumstances is held invalid, that invalidity shall
34 not affect other provisions or applications of this section which can
35 be given effect without the invalid provision or application, and to
36 this end the provisions of this section are severable.

37 SEC. 2. Section 12581 of the Government Code is amended
38 to read:

39 12581. This article applies to all charitable corporations ~~and~~,
40 *unincorporated associations, trustees, and other legal entities*

1 holding property for charitable purposes, commercial fundraisers
2 for charitable purposes, fundraising counsel for charitable
3 purposes, and commercial coventurers, over which the state or the
4 Attorney General has enforcement or supervisory powers. The
5 provisions of this article shall not apply to any committee as
6 defined in Section 82013 which is required to and does file any
7 statement pursuant to the provisions of Article 2 (commencing
8 with Section 84200) of Chapter 4 of Title 9.

9 SEC. 3. Section 12582 of the Government Code is amended
10 to read:

11 12582. “Trustee” means (a) any individual, group of
12 individuals, corporation, *unincorporated association*, or other
13 legal entity holding property in trust pursuant to any charitable
14 trust, (b) any corporation *or unincorporated association* which
15 has accepted property to be used for a particular charitable
16 corporate purpose as distinguished from the general purposes of
17 the corporation *or unincorporated association*, and (c) a
18 corporation *or unincorporated association* formed for the
19 administration of a charitable trust, pursuant to the directions of
20 the settlor or at the instance of the trustee.

21 SEC. 4. Section 12584 of the Government Code is amended
22 to read:

23 12584. The Attorney General shall establish and maintain a
24 register of charitable corporations, *unincorporated associations*,
25 and trustees subject to this article and of the particular trust or other
26 relationship under which they hold property for charitable
27 purposes and, to that end, may conduct whatever investigation is
28 necessary, and shall obtain from public records, court officers,
29 taxing authorities, trustees, and other sources, whatever
30 information, copies of instruments, reports, and records are
31 needed for the establishment and maintenance of the register.

32 SEC. 5. Section 12585 of the Government Code is amended
33 to read:

34 12585. Every charitable corporation, *unincorporated*
35 *association*, and trustee subject to this article ~~who has received~~
36 ~~property for charitable purposes~~ shall file with the Attorney
37 General, ~~within six months after any part of the income or~~
38 ~~principal is authorized or required to be applied to a charitable~~
39 ~~purpose~~, a copy of the articles of incorporation, or other
40 instrument ~~providing for his title, powers or duties. If any part of~~

~~the income or principal is authorized or required to be applied to a charitable purpose at the time this article takes effect, the filing shall be made within six months thereafter that governs the operation of the corporation, unincorporated association, or trust, within 30 days after the corporation, unincorporated association, or trustee initially receives property. A trustee is not required to register as long as the charitable interest in a trust is a future interest, but shall do so within 30 days after any charitable interest in a trust becomes a present interest.~~

SEC. 6. Section 12586 of the Government Code is amended to read:

12586. (a) Except as otherwise provided and except corporate trustees which are subject to the jurisdiction of the Commissioner of Financial Institutions of the State of California under Division 1 (commencing with Section 99) of the Financial Code or to the Comptroller of the Currency of the United States, every charitable corporation, *unincorporated association*, and trustee subject to this article shall, in addition to filing copies of the instruments previously required, file with the Attorney General periodic written reports, under oath, setting forth information as to the nature of the assets held for charitable purposes and the administration thereof by the corporation, *unincorporated association*, or trustee, in accordance with rules and regulations of the Attorney General.

(b) The Attorney General shall make rules and regulations as to the time for filing reports, the contents thereof, and the manner of executing and filing them. The Attorney General may classify trusts and other relationships concerning property held for a charitable purpose as to purpose, nature of assets, duration of the trust or other relationship, amount of assets, amounts to be devoted to charitable purposes, nature of trustee, or otherwise, and may establish different rules for the different classes as to time and nature of the reports required to the ends (1) that he or she shall receive reasonably current, periodic reports as to all charitable trusts or other relationships of a similar nature, which will enable him or her to ascertain whether they are being properly administered, and (2) that periodic reports shall not unreasonably add to the expense of the administration of charitable trusts and similar relationships. The Attorney General may suspend the filing of reports as to a particular charitable trust or relationship for

1 a reasonable, specifically designated time upon written
2 application of the trustee filed with the Attorney General and after
3 the Attorney General has filed in the register of charitable trusts a
4 written statement that the interests of the beneficiaries will not be
5 prejudiced thereby and that periodic reports are not required for
6 proper supervision by his or her office.

7 (c) A copy of an account filed by the trustee in any court having
8 jurisdiction of the trust or other relationship, if the account
9 substantially complies with the rules and regulations of the
10 Attorney General, may be filed as a report required by this section.

11 (d) The first *periodic written* report ~~for a trust or similar~~
12 ~~relationship hereafter established~~, unless the filing thereof is
13 suspended as herein provided, shall be filed not later than four (4)
14 months and ~~fifteen (15)~~ 15 days following the close of the first
15 calendar or fiscal year in which ~~any part of the income or principal~~
16 ~~is authorized or required to be applied to a charitable purpose~~
17 *property is initially received*. If any part of the income or principal
18 of a trust previously established is authorized or required to be
19 applied to a charitable purpose at the time this article takes effect,
20 the first report shall be filed at the close of the calendar or fiscal
21 year in which it was registered with the Attorney General or not
22 later than four (4) months and ~~fifteen (15)~~ 15 days following the
23 close of such calendar or fiscal period.

24 (e) *Every charitable corporation, unincorporated association,*
25 *and trustee required to file reports with the Attorney General*
26 *pursuant to this section that receives or accrues in any fiscal year*
27 *gross revenue of five hundred thousand dollars (\$500,000) or more*
28 *shall do both of the following:*

29 (1) *Prepare annual financial statements that are audited by an*
30 *independent certified public accountant in conformity with*
31 *generally accepted auditing standards. The firm conducting the*
32 *audit shall not provide any additional services to the entity that it*
33 *audits, with the exception of preparation of tax returns. The*
34 *audited financial statements shall be available for inspection by*
35 *the Attorney General. Audited financial statements shall be made*
36 *available to members of the public in response to a written or*
37 *in-person request. If the request is made in person at the office of*
38 *the organization, a copy shall be provided to the requester on the*
39 *day of the request. If the request is made in writing, the*
40 *organization shall provide a copy within 30 days of the request.*

1 *Reasonable copying costs and the actual cost of postage may be*
 2 *charged if timely notice of the approximate cost and acceptable*
 3 *form of payment is provided to the requester with the consent of the*
 4 *requester. The copy may be provided on the Internet.*

5 (2) *If it is a corporation, have an audit committee appointed by*
 6 *the board of directors from among its members. Members of the*
 7 *audit committee shall not serve on the finance committee, if any,*
 8 *and the audit committee shall not include any members of the staff,*
 9 *including the president or chief executive officer and the treasurer*
 10 *or chief financial officer. Members of the audit committee shall not*
 11 *receive any compensation from the corporation other than in their*
 12 *capacity as members of the board of directors and shall not have*
 13 *a material financial interest in any entity doing business with the*
 14 *corporation. Subject to the supervision of the board of directors,*
 15 *the audit committee shall be responsible for retaining and*
 16 *terminating the auditor and setting the auditor's compensation;*
 17 *shall confer with the auditor to satisfy its members that the*
 18 *financial affairs of the corporation are in order; and shall review*
 19 *and approve the audit.*

20 (f) *If, independent of the audit requirement set forth in*
 21 *paragraph (1) of subdivision (e), a charitable corporation,*
 22 *unincorporated association, or trustee required to file reports with*
 23 *the Attorney General pursuant to this section prepares financial*
 24 *statements that are audited by a certified public accountant, the*
 25 *audited financial statements shall be available for inspection by*
 26 *the Attorney General and shall be made available to members of*
 27 *the public in conformity with paragraph (1) of subdivision (e).*

28 (g) *At least once each year, the board of directors of each*
 29 *charitable corporation shall review and approve the*
 30 *compensation, including benefits, of the corporation's president or*
 31 *chief executive officer and its treasurer or chief financial officer.*

32 SEC. 7. Section 12598.1 is added to the Government Code, to
 33 read:

34 12598.1. Any entity that is required to register under this
 35 article shall maintain records regarding its activities for at least 10
 36 years after the end of the registration period to which the records
 37 relate and shall make those records available for inspection upon
 38 demand by the Attorney General.

39 SEC. 8. Section 12599 of the Government Code is amended
 40 to read:

1 12599. (a) “Commercial fundraiser for charitable purposes”
2 is defined as any individual, corporation, *unincorporated*
3 *association*, or other legal entity who for compensation does any
4 of the following:

5 (1) Solicits funds, assets, or property in this state for charitable
6 purposes.

7 (2) As a result of a solicitation of funds, assets, or property in
8 this state for charitable purposes, receives or controls the funds,
9 assets, or property solicited for charitable purposes.

10 (3) Employs, procures, or engages any compensated person to
11 solicit, receive, or control funds, assets, or property for charitable
12 purposes.

13 A commercial fundraiser for charitable purposes shall include
14 any person, association of persons, corporation, or other entity that
15 obtains a majority of its inventory for sale by the purchase, receipt,
16 or control for resale to the general public, of salvageable personal
17 property solicited by an organization qualified to solicit donations
18 pursuant to Section 148.3 of the Welfare and Institutions Code.

19 A commercial fundraiser for charitable purposes shall not
20 include a “trustee” as defined in Section 12582 or 12583, a
21 “charitable corporation” as defined in Section 12582.1, or any
22 employee thereof. A commercial fundraiser for charitable
23 purposes shall not include an individual who is employed by or
24 under the control of a commercial fundraiser for charitable
25 purposes registered with the Attorney General. A commercial
26 fundraiser for charitable purposes shall not include any federally
27 insured financial institution which holds as a depository funds
28 received as a result of a solicitation for charitable purposes.

29 As used in this section, “charitable purposes” includes any
30 solicitation in which the name of any organization of law
31 enforcement personnel, firefighters, or other persons who protect
32 the public safety is used or referred to as an inducement for
33 transferring any funds, assets, or property, unless the only
34 expressed or implied purpose of the solicitation is for the sole
35 benefit of the actual active membership of the organization.

36 (b) A commercial fundraiser for charitable purposes shall,
37 prior to soliciting any funds, assets, or property, including
38 salvageable personal property, in California for charitable
39 purposes, or prior to receiving and controlling any funds, assets,
40 or property, including salvageable personal property, as a result of

1 a solicitation in this state for charitable purposes, register with the
 2 Attorney General's Registry of Charitable Trusts on a registration
 3 form provided by the Attorney General. Renewals of registration
 4 shall be filed with the Registry of Charitable Trusts by January 15
 5 of each calendar year in which the commercial fundraiser for
 6 charitable purposes does business and shall be effective for one
 7 year. A registration or renewal fee of two hundred dollars (\$200)
 8 shall be required for registration of a commercial fundraiser for
 9 charitable purposes, and shall be payable by certified or cashier's
 10 check to the Attorney General's Registry of Charitable Trusts at
 11 the time of registration or renewal. The Attorney General may
 12 adjust the annual registration or renewal fee as needed pursuant to
 13 this section. The Attorney General's Registry of Charitable Trusts
 14 may grant extensions of time to file annual registration as required,
 15 pursuant to subdivision (b) of Section 12586.

16 (c) A commercial fundraiser for charitable purposes shall file
 17 with the Attorney General's Registry of Charitable Trusts, and
 18 with the sheriff of each county in which the fundraiser intends to
 19 solicit funds or the sheriff's designee, an annual financial report on
 20 a form provided by the Attorney General, accounting for all funds
 21 collected pursuant to any solicitation for charitable purposes
 22 during the preceding calendar year. The annual financial report
 23 shall be filed with the Attorney General's Registry of Charitable
 24 Trusts, and with the sheriff of each county in which a fundraiser
 25 intends to solicit funds or the sheriff's designee, no later than 30
 26 days after the close of the preceding calendar year. Nothing in this
 27 section shall be construed as requiring the sheriff of any county, or
 28 the sheriff's designee, to maintain on file any annual financial
 29 report required pursuant to this subdivision.

30 (d) The contents of the forms for annual registration and annual
 31 financial reporting by commercial fundraisers for charitable
 32 purposes shall be established by the Attorney General in a manner
 33 consistent with the procedures set forth in subdivisions (a) and (b)
 34 of Section 12586. The annual financial report shall require a
 35 detailed, itemized accounting of funds, assets, or property,
 36 solicited for charitable purposes on behalf of each charitable
 37 organization exempt from taxation under Section 501(c)(3) of the
 38 Internal Revenue Code or for each charitable purpose during the
 39 accounting period, and shall include, among other data, the

1 following information for funds, assets, or property, solicited by
2 the commercial fundraiser for charitable purposes:

3 (1) Total revenue.

4 (2) The fee or commission charged by the commercial
5 fundraiser for charitable purposes.

6 (3) Salaries paid by the commercial fundraiser for charitable
7 purposes to its officers and employees.

8 (4) Fundraising expenses.

9 (5) Distributions to the identified charitable organization or
10 purpose.

11 (6) The names and addresses of any director, officer, or
12 employee of the commercial fundraiser for charitable purposes
13 who is a director, officer, or employee of any charitable
14 organization listed in the annual financial report.

15 (e) A commercial fundraiser for charitable purposes that
16 obtains a majority of its inventory for sale by the purchase, receipt,
17 or control for resale to the general public, of salvageable personal
18 property solicited by an organization qualified to solicit donations
19 pursuant to Section 148.3 of the Welfare and Institutions Code
20 shall file with the Attorney General's Registry of Charitable
21 Trusts, and not with the sheriff of any county, an annual financial
22 report on a form provided by the Attorney General that is separate
23 and distinct from forms filed by other commercial fundraisers for
24 charitable purposes pursuant to subdivisions (c) and (d).

25 (f) It shall be unlawful for any commercial fundraiser for
26 charitable purposes to solicit funds in this state for charitable
27 purposes unless the commercial fundraiser for charitable purposes
28 has complied with the registration or annual renewal and financial
29 reporting requirements of this article. Failure to comply with these
30 registration or annual renewal and financial reporting
31 requirements shall be grounds for injunction against solicitation in
32 this state for charitable purposes and other civil remedies provided
33 by law.

34 (g) A commercial fundraiser for charitable purposes is a
35 constructive trustee for charitable purposes as to all funds
36 collected pursuant to solicitation for charitable purposes and shall
37 account to the Attorney General for all funds. A commercial
38 fundraiser for charitable purposes is subject to the Attorney
39 General's supervision and enforcement over charitable funds and

assets to the same extent as a trustee for charitable purposes under this article.

~~(h) It shall be unlawful for a commercial fundraiser for charitable purposes to not disclose the percentage of total fundraising expenses of the fundraiser upon receiving a written or oral request from a person solicited for a contribution for a charitable purpose. "Percentage of total fundraising expenses," as used in this section, means the ratio of the total expenses of the fundraiser to the total revenue received by the fundraiser for the charitable purpose for which funds are being solicited, as reported on the most recent financial report filed with the Attorney General's Registry of Charitable Trusts. A commercial fundraiser shall disclose this information in writing within five working days from receipt of a request by mail or fax. A commercial fundraiser shall orally disclose this information immediately upon a request made in person or in a telephone conversation and shall follow this response with a written disclosure within five working days. Failure to comply with the requirements of this subdivision shall be grounds for an injunction against solicitation in this state for charitable purposes and other civil remedies provided by law.~~

~~(i)–~~

(h) Not less than 10 working days prior to the commencement of each solicitation campaign, event, or service, a commercial fundraiser for charitable purposes shall file with the Attorney General's Registry of Charitable Trusts a copy of the contract described in subdivision (i).

(i) There shall be a written contract between a commercial fundraiser for charitable purposes and a charitable organization for each solicitation campaign, event, or service, that shall be signed by the authorized contracting officer for the commercial fundraiser and by two officials of the charitable organization who are authorized to sign by the organization's governing body. The contract shall contain all of the following provisions:

(1) The legal name and address of the charitable organization as registered with the Registry of Charitable Trusts unless the charitable organization is exempt from registration.

(2) A statement of the charitable purpose for which the solicitation campaign, event, or service is being conducted.

(3) A statement of the respective obligations of the commercial fundraiser and the charitable organization.

1 (4) If the commercial fundraiser is to be paid a fixed fee, a
2 statement of the fee to be paid to the commercial fundraiser and an
3 accurate estimate of what percentage the fee will constitute of the
4 total contributions received. The contract shall clearly disclose the
5 assumptions upon which the estimate is based, and the stated
6 assumptions shall be based upon all of the relevant facts known to
7 the commercial fundraiser regarding the solicitation to be
8 conducted by the commercial fundraiser.

9 (5) If a percentage fee is to be paid to the commercial
10 fundraiser, a statement of the percentage of the total contributions
11 received that will be remitted to or retained by the charitable
12 organization, or, if the solicitation involves the sale of goods or
13 services or the sale of admissions to a fundraising event, the
14 percentage of the purchase price that will be remitted to the
15 charitable organization. The stated percentage shall be calculated
16 by subtracting from contributions received and sales receipts not
17 only the commercial fundraiser's fee, but also any additional
18 amounts that the charitable organization is obligated to pay as
19 fundraising costs.

20 (6) The effective and termination dates of the contract and the
21 date solicitation activity is to commence within the state.

22 (7) Each contribution in the control or custody of the
23 commercial fundraiser shall in its entirety and within five days of
24 its receipt comply with either of the following:

25 (A) Be deposited in an account at a bank or other federally
26 insured financial institution that is solely in the name of the
27 charitable organization and over which the charitable
28 organization has sole control of withdrawals.

29 (B) Be delivered to the charitable organization in person, by
30 United States express mail, or by another method of delivery
31 providing for overnight delivery.

32 (8) A statement that the charitable organization exercises
33 control and approval over the content and frequency of any
34 solicitation.

35 (9) A provision requiring, if the commercial fundraiser propose
36 to make any payment in cash or in kind to any person or legal entity
37 to secure any person's attendance at, or sponsorship, approval, or
38 endorsement of, a charity fundraising event, that all of these
39 payments shall be approved, in advance, in writing by the board
40 of directors or chief executive officer of the charitable

1 organization, that charitable funds or contributions shall not be
2 used to make these payments where the payments have not been so
3 approved, and that the commercial fundraiser shall personally
4 notify the person whose attendance, sponsorship, approval, or
5 endorsement is sought of the requirement of approval and whether
6 that approval has been obtained. “Charity fundraising event”
7 means any gathering of persons, including, but not limited to, a
8 party, banquet, concert, or show, that is held for the purpose or
9 claimed purpose of raising funds for any charitable purpose or
10 organization.

11 (10) A provision that the charitable organization has the right
12 to cancel the contract without cost, penalty, or liability for a period
13 of 10 days following the date on which the contract is executed;
14 that the charitable organization may cancel the contract by
15 serving a written notice of cancellation on the commercial
16 fundraiser; that, if mailed, service shall be by certified mail, return
17 receipt requested, and cancellation shall be deemed effective upon
18 the expiration of five calendar days from the date of mailing; that
19 any funds collected after effective notice that the contract has been
20 canceled shall be deemed to be held in trust for the benefit of the
21 charitable organization without deduction for costs or expenses of
22 any nature; and that the charitable organization shall be entitled
23 to recover all funds collected after the date of cancellation.

24 (11) A provision that, following the initial 10-day cancellation
25 period, the charitable organization may terminate the contract by
26 giving 30 days’ written notice; that, if mailed, service of the notice
27 shall be by certified mail, return receipt requested, and shall be
28 deemed effective upon the expiration of five calendar days from the
29 date of mailing; and that, in the event of termination under this
30 subdivision, the charitable organization shall be liable for services
31 provided by the commercial fundraiser to the effective date of the
32 termination.

33 (12) A provision that, following the initial 10-day cancellation
34 period, the charitable organization may terminate the contract at
35 any time upon written notice, without payment or compensation of
36 any kind to the commercial fundraiser, if the commercial
37 fundraiser or its agents, employees, or representatives (A) make
38 any material misrepresentations in the course of solicitations or
39 with respect to the charitable organization, (B) have been
40 convicted of a felony, or a misdemeanor, arising from the conduct

1 *of a solicitation for a charitable organization or purpose, or (C)*
2 *otherwise conduct fundraising activities in a manner that causes*
3 *or could cause public disparagement of the charitable*
4 *organization's good name or good will.*

5 *(13) Any other information required by the regulations of the*
6 *Attorney General.*

7 *(j) If the Attorney General issues a report to the public*
8 *containing information obtained from registration forms or*
9 *financial report forms filed by commercial fundraisers for*
10 *charitable purposes, there shall be a separate section concerning*
11 *commercial fundraisers for charitable purposes that obtain a*
12 *majority of their inventory for sale by the purchase, receipt, or*
13 *control for resale to the general public, of salvageable personal*
14 *property solicited by an organization qualified to solicit donations*
15 *pursuant to Section 148.3 of the Welfare and Institutions Code.*
16 *The report shall include an explanation of the distinctions between*
17 *these thrift store operations and other types of commercial*
18 *fundraising.*

19 ~~*(j)*~~

20 *(k) No person may act as a commercial fundraiser for*
21 *charitable purposes if that person, any officer or director of that*
22 *person's business, any person with a controlling interest in the*
23 *business, or any person the commercial fundraiser employs,*
24 *engages, or procures to solicit for compensation, has been*
25 *convicted by a court of any state or the United States of a felony*
26 *or misdemeanor involving dishonesty or arising from the conduct*
27 *of a solicitation for a charitable organization or purpose.*

28 *(l) A commercial fundraiser for charitable purposes shall not*
29 *solicit in the state on behalf of a charitable organization unless*
30 *that charitable organization is registered or is exempt from*
31 *registration with the Attorney General's Registry of Charitable*
32 *Trusts.*

33 *(m) If any provision of this section or the application thereof to*
34 *any person or circumstances is held invalid, that invalidity shall*
35 *not affect other provisions or application of this section which can*
36 *be given effect without the invalid provision or application, and to*
37 *this end the provisions of this section are severable.*

38 SEC. 9. Section 12599.1 of the Government Code is amended
39 to read:

1 12599.1. (a) “Fundraising counsel for charitable purposes”
2 is defined as any ~~person~~ *individual, corporation, unincorporated*
3 *association, or other legal entity* who is described by all of the
4 following:

5 (1) For compensation plans, manages, advises, counsels,
6 consults, or prepares material for, or with respect to, the
7 solicitation in this state of funds, assets or property for charitable
8 purposes.

9 (2) Does not solicit funds, assets, or property for charitable
10 purposes.

11 (3) Does not receive or control funds, assets, or property
12 solicited for charitable purposes in this state.

13 (4) Does not employ, procure, or engage any compensated
14 person to solicit, receive, or control funds, assets, or property for
15 charitable purposes.

16 (b) “Fundraising counsel for charitable purposes” does not
17 include any of the following:

18 (1) An attorney, investment counselor, or banker who in the
19 conduct of that person’s profession advises a client when actually
20 engaged in the giving of legal, investment, or financial advice.

21 (2) A trustee as defined in Section 12582 or 12583.

22 (3) A charitable corporation as defined in Section 12582.1, or
23 any employee thereof.

24 (4) A person employed by or under the control of a fundraising
25 counsel for charitable purposes, as defined in subdivision (a).

26 (5) A person, corporation, or other legal entity, engaged as an
27 independent contractor directly by a trustee or a charitable
28 corporation, that prints, reproduces, or distributes written
29 materials prepared by a trustee, a charitable corporation, or any
30 employee thereof, or that performs artistic or graphic services with
31 respect to written materials prepared by a trustee, a charitable
32 corporation, or any employee thereof, provided that the
33 independent contractor does not perform any of the activities
34 described in paragraph (1) of subdivision (a).

35 (6) A person whose total annual gross compensation for
36 performing any activity described in paragraph (1) of subdivision
37 (a) does not exceed twenty-five thousand dollars (\$25,000).

38 (c) A fundraising counsel for charitable purposes shall, prior to
39 managing, advising, counseling, consulting, or preparing material
40 for, or with respect to, the solicitation in this state of funds, assets,

1 or property for charitable purposes, register with the Attorney
2 General's Registry of Charitable Trusts on a registration form
3 provided by the Attorney General. Renewals of registration shall
4 be filed with the Registry of Charitable Trusts by January 15 of
5 each calendar year in which the fundraising counsel for charitable
6 purposes does business and shall be effective for one year.

7 A registration or renewal fee of two hundred dollars (\$200) shall
8 be required for registration of a fundraising counsel for charitable
9 purposes, and shall be payable by certified or cashier's check to the
10 Attorney General's Registry of Charitable Trusts at the time of
11 registration and renewal. The Attorney General may adjust the
12 annual registration or renewal fee as needed pursuant to this
13 section. The Attorney General's Registry of Charitable Trusts may
14 grant extensions of time to file annual registration as required,
15 pursuant to subdivision (b) of Section 12586.

16 (d) A fundraising counsel for charitable purposes shall file
17 annually with the Attorney General's Registry of Charitable Trusts
18 on a form provided by the Attorney General, a report listing each
19 person, corporation, or other legal entity for whom the fundraising
20 counsel has performed any services described in paragraph (1) of
21 subdivision (a), and a statement certifying that the fundraising
22 counsel had a written contract with each listed person, corporation,
23 *unincorporated association*, or other legal entity that ~~contained the~~
24 ~~following provisions:~~

25 ~~(1) The legal name and address of the person, corporation, or~~
26 ~~other legal entity as registered with the Attorney General pursuant~~
27 ~~to this article, or if the person, corporation, or other legal entity is~~
28 ~~not registered with the Attorney General, the legal name and~~
29 ~~address of the person, corporation, or other legal entity as~~
30 ~~registered with the Secretary of State.~~

31 ~~(2) A statement of the respective obligations of the fundraising~~
32 ~~counsel and the person, corporation, or other legal entity.~~

33 ~~(3) A clear statement of the fees and any other form of~~
34 ~~compensation, including commissions or property, that will be~~
35 ~~paid to the fundraising counsel.~~

36 ~~(4) The effective and termination dates of the contract and the~~
37 ~~date services will commence with respect to solicitation in this~~
38 ~~state of funds, assets, or property for charitable purposes.~~

~~(5) A statement that the person, corporation, or other legal entity exercises control and approval over the content and volume or any solicitation for charitable purposes.~~

~~(6) A statement that the fundraising counsel will not at any time solicit funds, assets, or property for charitable purposes, receive or control funds, assets, or property solicited for charitable purposes, or employ, procure, or engage any compensated person to solicit, receive, or control funds, assets, or property for charitable purposes.~~

~~(7) The signature of an authorized officer or director of the person, corporation, or other legal entity and the signature of the authorized contracting officer of the fundraising counsel complied with the requirements of subdivision (e).~~

(e) Contracts for services between a charitable organization and a fundraising counsel shall be in writing and shall be filed by the fundraising counsel with the Attorney General's Registry of Charitable Trusts at least 10 working days prior to the performance by the fundraising counsel of any service. No services pursuant to the contract shall begin before the filing of the contract with the Registry of Charitable Trusts. The contract must be signed by the authorized contracting officer for the fundraising counsel and by two officials of the charitable organization who are authorized to sign by the organization's governing body. The contract shall contain all of the following provisions:

(1) The legal name and address of the charitable organization as registered with the Registry of Charitable Trusts unless the charitable organization is exempt from registration.

(2) A statement of the charitable purpose for which the solicitation campaign is being conducted.

(3) A statement of the respective obligations of the fundraising counsel and the charitable organization.

(4) A clear statement of the fees and any other form of compensation, including commissions and property, that will be paid to the fundraising counsel.

(5) The effective and termination dates of the contract and the date services will commence with respect to solicitation in this state of contributions for a charitable organization.

(6) A statement that the fundraising counsel will not at any time solicit funds, assets, or property for charitable purposes, receive or control funds, assets, or property solicited for charitable

1 *purposes, or employ, procure, or engage any compensated person*
2 *to solicit, receive, or control funds, assets, or property for*
3 *charitable purposes.*

4 *(7) A statement that the charitable organization exercises*
5 *control and approval over the content and frequency of any*
6 *solicitation.*

7 *(8) A provision that the charitable organization has the right to*
8 *cancel the contract without cost, penalty, or liability for a period*
9 *of 10 days following the date on which the contract is executed;*
10 *that the charitable organization may cancel the contract by*
11 *serving a written notice of cancellation on the fundraising*
12 *counsel; and that, if mailed, service shall be by certified mail,*
13 *return receipt requested, and cancellation shall be deemed*
14 *effective upon the expiration of five calendar days from the date of*
15 *mailing.*

16 *(9) A provision that, following the initial 10-day cancellation*
17 *period, the charitable organization may terminate the contract by*
18 *giving 30 days' written notice; that, if mailed, service of the notice*
19 *shall be by certified mail, return receipt requested, and shall be*
20 *deemed effective upon the expiration of five calendar days from the*
21 *date of mailing; and that, in the event of termination under this*
22 *subdivision, the charitable organization shall be liable for services*
23 *provided by the fundraising counsel to the effective date of the*
24 *termination.*

25 *(10) Any other information required by the regulations of the*
26 *Attorney General.*

27 *(f) It shall be unlawful for any fundraising counsel for*
28 *charitable purposes to manage, advise, counsel, consult, or prepare*
29 *material for, or with respect to, the solicitation in this state of*
30 *funds, assets, or property for charitable purposes unless the*
31 *fundraising counsel for charitable purposes has complied with the*
32 *registration or annual renewal and financial reporting*
33 *requirements of this article.*

34 ~~*(f)*~~

35 *(g) A fundraising counsel for charitable purposes is subject to*
36 *the Attorney General's supervision and enforcement to the same*
37 *extent as a trustee for charitable purposes under this article.*

38 ~~*(g)*~~

39 *(h) If any provision of this section or the application thereof to*
40 *any person or circumstances is held invalid, that invalidity shall*



1 not affect other provisions or application of this section which can
2 be given effect without the invalid provision or application, and to
3 this end the provisions of this section are severable.

4 SEC. 10. Section 12599.3 is added to the Government Code,
5 to read:

6 12599.3. (a) No commercial fundraiser for charitable
7 purposes or fundraising counsel for charitable purposes shall
8 contract with a charitable organization unless the commercial
9 fundraiser or the fundraising counsel is registered with the
10 Attorney General's Registry of Charitable Trusts. A contract with
11 an unregistered commercial fundraiser or fundraising counsel
12 shall be void.

13 (b) Whenever a charitable organization contracts with a
14 commercial fundraiser for charitable purposes or fundraising
15 counsel for charitable purposes, the charitable organization shall
16 have the right to cancel the contract without cost, penalty, or
17 liability for a period of 10 days following the date on which the
18 contract is executed. Any provision in the contract that is intended
19 to waive this right of cancellation shall be void and unenforceable.

20 (c) A charitable organization may cancel a contract pursuant to
21 subdivision (b) by serving a written notice of cancellation on the
22 fundraising counsel or commercial fundraiser. If mailed, service
23 shall be by certified mail, return receipt requested, and
24 cancellation shall be deemed effective upon the expiration of five
25 calendar days from the date of mailing. The notice shall be
26 sufficient if it indicates that the charitable organization does not
27 intend to be bound by the contract.

28 (d) Whenever a charitable organization cancels a contract
29 pursuant to the provisions of this section, it shall mail a duplicate
30 copy of the notice of cancellation to the Attorney General's
31 Registry of Charitable Trusts.

32 (e) Any funds collected after effective notice that a contract has
33 been canceled shall be deemed to be held in trust for the benefit of
34 the charitable organization without deduction for costs or expenses
35 of any nature. A charitable organization shall be entitled to recover
36 all funds collected after the date of cancellation.

37 (f) Following the initial 10-day cancellation period, a
38 charitable organization may terminate a contract with a
39 commercial fundraiser for charitable purposes or a fundraising
40 counsel for charitable purposes by giving 30 days' written notice.

1 If mailed, service of the notice shall be by certified mail, return
2 receipt requested, and shall be deemed effective upon the
3 expiration of five calendar days from the date of mailing. In the
4 event of termination under this subdivision, the charitable
5 organization shall be liable for services provided by the
6 commercial fundraiser or fundraising counsel to the effective date
7 of the termination.

8 (g) Following the initial 10-day cancellation period, a
9 charitable organization may terminate at any time upon written
10 notice a contract with a commercial fundraiser for charitable
11 purposes or a fundraising counsel for charitable purposes, without
12 payment or compensation of any kind to the commercial
13 fundraiser or fundraising counsel, if the commercial fundraiser or
14 the fundraising counsel, or their agents, employees, or
15 representatives (1) make any material misrepresentations in the
16 course of solicitations or with respect to the charitable
17 organization, (2) have been convicted of a felony or misdemeanor
18 arising from the conduct of a solicitation for a charitable
19 organization or purpose, or (3) otherwise conduct fundraising
20 activities in a manner that causes or could cause public
21 disparagement of the charitable organization's good name or good
22 will.

23 SEC. 11. Section 12599.6 is added to the Government Code,
24 to read:

25 12599.6. (a) Charitable organizations and commercial
26 fundraisers for charitable purposes may accept contributions only
27 for a charitable purpose that is expressed in the solicitation for
28 contributions and that conforms to the charitable purposes
29 expressed in the articles of incorporation or other governing
30 instrument of the charitable organization and may apply the
31 contributions only in a manner consistent with those purposes.

32 (b) Charitable organizations and commercial fundraisers for
33 charitable purposes soliciting in this state shall make all of the
34 following disclosures in any written solicitation and at the time of
35 any oral solicitation:

36 (1) Their legal name and address as registered with the
37 Attorney General's Registry of Charitable Trusts and, if different,
38 the legal name and address of the charitable organization, as
39 registered with the Attorney General's Registry of Charitable
40 Trusts, on whose behalf the solicitation is being conducted. Any

1 use of a project or program name in a solicitation must be
2 immediately followed by disclosure of the legal name of the
3 charitable organization as registered with the Attorney General's
4 Registry of Charitable Trusts.

5 (2) If requested, the name, address, and telephone number of a
6 representative to whom inquiries can be addressed and from whom
7 written information is available.

8 (3) A full, fair, and accurate description of the charitable
9 purpose or purposes for which the contributions raised by the
10 solicitation will be used and, if the solicitation is on behalf of a
11 charitable organization, the legal name of the charitable
12 organization as registered with the Registry of Charitable Trusts.

13 (4) If requested, the source from which a financial statement
14 may be obtained. The financial statement shall be consistent with
15 the annual financial report required under Section 12586 and shall
16 disclose assets, liabilities, fund balances, revenue, and expenses
17 for the preceding fiscal year. Expenses shall be separated into
18 program services, administrative costs, and fundraising costs.

19 (5) A commercial fundraiser for charitable purposes shall
20 disclose that the solicitation is being conducted by a commercial
21 fundraiser for compensation and, if the individual acting on behalf
22 of the commercial fundraiser identifies himself or herself by name,
23 the individual's legal name.

24 (6) If requested orally or in writing by a person solicited, a
25 commercial fundraiser for charitable purposes shall disclose (A)
26 if the commercial fundraiser is being paid a fixed fee, the fee being
27 paid to the commercial fundraiser and a reasonable estimate of
28 what percentage the fee will constitute of the total contributions
29 received, and (B) if the commercial fundraiser is being paid a
30 percentage fee, a statement of the percentage of the total
31 contributions received that will be remitted to or retained by the
32 charitable organization, or, if the solicitation involves the sale of
33 goods or services or the sale of tickets to a fundraising event, the
34 percentage of the purchase price that will be remitted to the
35 charitable organization. The stated percentage shall be calculated
36 by subtracting from contributions received and sales receipts of
37 not only the commercial fundraiser's fee, but also any additional
38 amount that the charitable organization is obligated to pay as
39 fundraising costs. A commercial fundraiser shall disclose this
40 information in writing within five working days from receipt of a

1 request by mail, e-mail, or fax. A commercial fundraiser shall
2 orally disclose this information immediately upon a request made
3 in person or in a telephone conversation and shall follow this
4 response with a written disclosure within five working days.
5 Failure to comply with the requirements of this subdivision shall
6 be grounds for an injunction against solicitation in this state for
7 charitable purposes and other civil remedies provided by law.

8 (c) Every printed solicitation and every written confirmation,
9 receipt, or reminder of a contribution, provided to any person shall
10 include in 9-point typeface or larger a disclosure of the information
11 required by paragraphs (1), (2), (3), and (4) of subdivision (b), and
12 the following statement verbatim:

13 “The official registration and financial information regarding
14 (insert the legal name of the charity as registered with the Attorney
15 General’s Registry of Charitable Trusts) can be obtained from the
16 Attorney General’s Web site at <http://caag.state.ca.us/charities/>.
17 Registration does not imply endorsement.”

18 (d) Charitable organizations and commercial fundraisers for
19 charitable purposes shall not misrepresent the purpose of the
20 charitable organization or the nature or purpose or beneficiary of
21 a solicitation. A misrepresentation may be accomplished by words
22 or conduct or failure to disclose a material fact.

23 (e) A charitable organization must establish and exercise
24 control over fundraising activities conducted for its benefit,
25 including approval of all written contracts and agreements, and
26 must assure that fundraising activities are conducted without
27 coercion.

28 (f) A charitable organization shall not enter into any contract or
29 agreement with, or employ, any commercial fundraiser for
30 charitable purposes or fundraising counsel for charitable purposes
31 unless that commercial fundraiser or fundraising counsel is
32 registered with the Attorney General’s Registry of Charitable
33 Trusts.

34 (g) A charitable organization shall not enter into any contract
35 or agreement with, or raise any funds for, any charitable
36 organization required to be registered pursuant to this act unless
37 that charitable organization is registered with the Attorney
38 General’s Registry of Charitable Trusts.

39 (h) A charitable organization shall deposit each and every
40 contribution raised on its behalf within five days of receipt into an

1 account at a bank or other federally insured institution that is solely
2 in its name and over which it has sole control of withdrawals. Each
3 contribution in the control or custody of a commercial fundraiser
4 for charitable purposes shall in its entirety and within five days of
5 receipt (1) be deposited in an account at a bank or other federally
6 insured financial institution that is solely in the name of the
7 charitable organization on whose behalf the contribution was
8 solicited and over which the charitable organization has sole
9 control of withdrawals or, (2) be delivered to the charitable
10 organization in person, by Express Mail, or by another method of
11 delivery providing for overnight delivery.

12 (i) Regardless of injury, the following acts and practices are
13 prohibited in the planning, conduct, or execution of any
14 solicitation or charitable sales promotion:

15 (1) Operating in violation of, or failing to comply with, any of
16 the requirements of this act or regulations or orders of the Attorney
17 General, or soliciting contributions after registration with the
18 Attorney General's Registry of Charitable Trusts has expired or
19 has been suspended or revoked.

20 (2) Using any unfair or deceptive acts or practices or engaging
21 in any fraudulent conduct that creates a likelihood of confusion or
22 misunderstanding.

23 (3) Using any representation that implies the contribution is for
24 or on behalf of a charitable organization, or using any emblem,
25 device, or printed matter belonging to or associated with a
26 charitable organization, without first being authorized in writing
27 to do so by the charitable organization.

28 (4) Using a name, symbol, or statement so closely related or
29 similar to that used by another charitable organization or another
30 person that the use would tend to confuse or mislead a solicited
31 person.

32 (5) Misrepresenting or misleading anyone in any manner to
33 believe that the person on whose behalf a solicitation or charitable
34 sales promotion is being conducted is a charitable organization or
35 that the proceeds of the solicitation or charitable sales promotion
36 will be used for charitable purposes when that is not the fact.

37 (6) Misrepresenting or misleading anyone in any manner to
38 believe that any other person sponsors, endorses, or approves a
39 charitable solicitation or charitable sales promotion when that

1 person has not given consent in writing to the use of the person's
2 name for these purposes.

3 (7) Misrepresenting or misleading anyone in any manner to
4 believe that goods or services have endorsement, sponsorship,
5 approval, characteristics, ingredients, uses, benefits, or qualities
6 that they do not have or that a person has endorsement,
7 sponsorship, approval, status, or affiliation that the person does not
8 have.

9 (8) Using or exploiting the fact of registration with the
10 Attorney General's Registry of Charitable Trusts so as to lead any
11 person to believe that the registration in any manner constitutes an
12 endorsement or approval by the Attorney General. The use of the
13 following statement is not prohibited:

14 "The official registration and financial information regarding
15 (insert the legal name of the charity as registered with the Registry
16 of Charitable Trusts) can be obtained from the Attorney General's
17 Web site at <http://caag.state.ca.us/charities/>. Registration does not
18 imply endorsement."

19 (9) Representing directly or by implication that a charitable
20 organization will receive an amount greater than the actual net
21 proceeds reasonably estimated to be retained by the charity for its
22 use.

23 (10) With respect to solicitations by commercial fundraisers
24 for charitable purposes on behalf of law enforcement personnel,
25 firefighters, or other persons who protect the public safety, issuing,
26 offering, giving, delivering, or distributing any honorary
27 membership cards, courtesy cards, or similar cards, or any
28 stickers, emblems, plates, or other items that could be used for
29 display on a motor vehicle, and that suggest affiliation with, or
30 endorsement by any public safety personnel or a group comprising
31 such personnel.

32 (11) (A) Soliciting for advertising to appear in a for-profit
33 publication that relates to, purports to relate to, or that could
34 reasonably be construed to relate to, any charitable purpose
35 without making the following disclosures at the time of
36 solicitation:

37 (i) The publication is a for-profit, commercial enterprise.

38 (ii) The true name of the solicitor and the fact that the solicitor
39 is a professional solicitor.



1 (iii) The publication is not affiliated with or sponsored by any
2 charitable organization.

3 (B) Where a sale of advertising has been made, the solicitor,
4 prior to accepting any money for the sale, shall make to the
5 purchaser the disclosures required by subparagraph (A) in written
6 form and in conspicuous type.

7 (12) Representing that any part of the contributions received
8 will be given or donated to any other charitable organization unless
9 that organization has consented in writing to the use of its name
10 prior to the solicitation. The written consent shall be signed by two
11 authorized officers, directors, or trustees of the charitable
12 organization.

13 (13) Representing that tickets to events will be donated for use
14 by another, unless all of the following requirements have been met:

15 (A) The charitable organization or commercial fundraiser has
16 commitments, in writing, from charitable organizations stating
17 that they will accept donated tickets and specifying the number of
18 tickets they are willing to accept.

19 (B) A charitable organization or commercial fundraiser shall
20 not solicit or accept a donation of tickets from a donor if the
21 donation will, when combined with other ticket donations, exceed
22 the lesser of:

23 (i) The number of ticket commitments it has received from
24 charitable organizations.

25 (ii) The total attendance capacity of the site of the event.

26 (j) A ticket commitment from a charitable organization alone,
27 as described in subdivision (i), does not constitute written consent
28 to use of the organization's name in the solicitation campaign.

29 SEC. 12. Section 12599.7 is added to the Government Code,
30 to read:

31 12599.7. (a) A commercial fundraiser for charitable
32 purposes shall maintain during each solicitation campaign and for
33 not less than 10 years following the completion of each solicitation
34 campaign records containing the following information, which
35 shall be available for inspection upon demand by the Attorney
36 General:

37 (1) The date and amount of each contribution received as a
38 result of the solicitation campaign and, for noncash contributions,
39 the name and address of each contributor.

(2) The name and residence address of each employee, agent, or other person involved in the solicitation campaign.

(3) Records of all revenue received and expenses incurred in the course of the solicitation campaign.

(4) For each account into which the commercial fundraiser deposited revenue from the solicitation campaign, the account number and the name and location of the bank or other financial institution in which the account was maintained.

(b) If a commercial fundraiser for charitable purposes sells tickets to an event and represents that tickets will be donated for use by another, the commercial fundraiser shall maintain for not less than 10 years following the completion of the event records containing the following information, which shall be available for inspection upon demand by the Attorney General:

(1) The number of tickets purchased and donated by each contributor.

(2) The name and address of all organizations receiving donated tickets for use by others, including the number of tickets received by each organization.

SEC. 13. Section 12599.8 is added to the Government Code, to read:

12599.8. (a) No payments in cash or in-kind may be made to any person or legal entity to secure any person's attendance at, or sponsorship, approval, or endorsement of, a charity fundraising event without the advance written approval of the board of directors or chief executive officer of each charitable organization for whose benefit the fundraising event is conducted. The person proposing to make such a payment shall personally notify the person whose attendance, sponsorship, approval, or endorsement is sought of the requirement of approval and whether it has been obtained. Upon suit by the Attorney General or by any charity whose approval was not obtained as provided in this section, any such payment that has not been so approved shall be paid over by the recipient to the charity or charities on whose behalf the payment was made.

(b) For the purpose of this section, 'charity fundraising event' means any gathering of persons, including, but not limited to, a party, banquet, concert, or show, that is held for the purpose or claimed purpose of raising funds for any charitable purpose or organization.

1 SEC. 14. No reimbursement is required by this act pursuant
2 to Section 6 of Article XIII B of the California Constitution
3 because the only costs that may be incurred by a local agency or
4 school district will be incurred because this act creates a new crime
5 or infraction, eliminates a crime or infraction, or changes the
6 penalty for a crime or infraction, within the meaning of Section
7 17556 of the Government Code, or changes the definition of a
8 crime within the meaning of Section 6 of Article XIII B of the
9 California Constitution.

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